

Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 405: LICENSING OF HOSPITALS AND INSTITUTIONS

§1812-G. MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS AND DIRECT CARE WORKERS

1. Established. The Maine Registry of Certified Nursing Assistants and Direct Care Workers is established in compliance with federal and state requirements. The Department of Health and Human Services shall maintain the registry.

[2011, c. 257, §2 (AMD) .]

1-A. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Certified nursing assistant" means an individual who has successfully completed an approved nursing assistant training program, holds a certificate of training and meets the eligibility requirements established by the State Board of Nursing for listing on the registry. [2009, c. 215, §1 (NEW) .]

B. "Registry" means the Maine Registry of Certified Nursing Assistants and Direct Care Workers established in subsection 1, which is a list of certified nursing assistants, with notations if applicable, and a list of unlicensed assistive persons with notations. [2011, c. 257, §2 (AMD) .]

C. "Unlicensed assistive person" or "direct care worker" means an individual employed to provide hands-on assistance with activities of daily living or other services to individuals in homes, assisted living programs, residential care facilities, hospitals and other health care and direct care settings. "Unlicensed assistive person" and "direct care worker" include but are not limited to a direct support professional, residential care specialist, personal support specialist, mental health support specialist, mental health rehabilitation technician, behavior specialist, other qualified mental health professional, certified residential medication aide and registered medical assistant and other direct care workers as described in rules adopted by the department. "Unlicensed assistive person" and "direct care worker" do not include a certified nursing assistant employed in the capacity of a certified nursing assistant. [2011, c. 257, §2 (AMD) .]

[2011, c. 257, §2 (AMD) .]

2. Contents. The registry must contain a listing of certified nursing assistants. The listing must include, for any certified nursing assistant listed, a notation of:

A. Any criminal convictions, except for Class D and Class E convictions over 10 years old that did not involve as a victim of the act a patient, client or resident of a health care entity; and [1997, c. 465, §1 (AMD) .]

B. Any specific documented findings by the state survey agency of abuse, neglect or misappropriation of property of a resident, client or patient. For purposes of this section, "state survey agency" means the agency specified under 42 United States Code, Sections 1395aa and 1396 responsible for determining whether institutions and agencies meet requirements for participation in the State's Medicare and Medicaid programs. [1991, c. 421, §1 (NEW) .]

The registry must also contain a listing of any unlicensed assistive persons who have notations pursuant to section 1812-J.

[2009, c. 215, §1 (AMD) .]

3. Eligibility requirements for listing. The State Board of Nursing shall adopt rules pursuant to the Maine Administrative Procedure Act defining eligibility requirements for listing on the registry, including rules regarding temporary listing of nursing assistants who have received training in another jurisdiction. The rules must permit nursing assistants to work under the supervision of a registered professional nurse in a facility providing assisted living services as defined in chapter 1664 and must recognize work in those facilities for the purpose of qualifying for and continuing listing on the registry. Rules adopted regarding the work of nursing assistants in facilities providing assisted living services are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[2009, c. 215, §1 (AMD) .]

4. Verification of credentials and training. The department shall verify the credentials and training of all certified nursing assistant applicants to the registry.

[2009, c. 215, §1 (AMD) .]

4-A. Provider verification fee. The department may establish a provider verification fee not to exceed \$25 annually per provider for verification of a certified nursing assistant's credentials and training. Providers may not pass the cost on to the individual certified nursing assistant. Provider verification fees collected by the department must be placed in a special revenue account to be used by the department to operate the registry, including but not limited to the cost of criminal history record checks. The department may adopt rules necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 590, §2 (NEW) .]

5. Verifying certified nursing assistant listing. A health care institution, facility or organization that employs a certified nursing assistant shall, before hiring a certified nursing assistant, verify with the registry that the certified nursing assistant is listed on the registry.

[2009, c. 215, §1 (AMD) .]

6. Registry notations. Except as otherwise provided in this section:

A. An individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property in a health care setting; and [2003, c. 376, §2 (NEW) .]

B. An individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual:

- (1) Has been the subject of a complaint involving abuse or neglect that was substantiated by the department pursuant to its responsibility to license hospitals, nursing facilities, home health agencies and assisted housing programs and that was entered on the registry; or
- (2) Has been the subject of a complaint involving the misappropriation of property in a health care setting that was substantiated by the department and entered on the registry. [2009, c. 215, §1 (AMD) .]

[2009, c. 215, §1 (AMD) .]

7. Time limit on consideration of prior criminal conviction. Except as otherwise provided in this section, an individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual has a prior criminal conviction within the last 10 years of:

A. A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or [2003, c. 376, §2 (NEW).]

B. A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting. [2003, c. 376, §2 (NEW).]

[2003, c. 599, §4 (AMD); 2003, c. 599, §5 (AFF); 2003, c. 634, §3 (AMD).]

8. Exception. The restrictions on employment under subsections 6 and 7 do not apply to an individual listed and active on the registry prior to the effective date of this subsection, as long as the individual meets other state and federal requirements for certified nursing assistants and continues to maintain an active status by timely reregistration as required by the rules.

[2009, c. 215, §1 (AMD).]

9. Notification. A nursing assistant training program must notify applicants to that program of the restrictions under subsections 6 and 7 prior to the acceptance of any applicant.

[2003, c. 376, §2 (NEW).]

SECTION HISTORY

RR 1991, c. 2, §76 (RNU). 1991, c. 421, §1 (NEW). 1993, c. 247, §1 (AMD). 1995, c. 670, §B2 (AMD). 1995, c. 670, §D5 (AFF). 1997, c. 465, §§1,2 (AMD). 2001, c. 596, §B5 (AMD). 2001, c. 596, §B25 (AFF). 2003, c. 376, §§1,2 (AMD). 2003, c. 599, §4 (AMD). 2003, c. 599, §5 (AFF). 2003, c. 634, §3 (AMD). 2003, c. 689, §B6 (REV). 2009, c. 215, §1 (AMD). 2009, c. 590, §2 (AMD). 2011, c. 257, §2 (AMD).

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